

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

DAMION GREEN,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:20-cv-408-RAH
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	


ORDER

On August 22, 2023, the Magistrate Judge filed a Recommendation (Doc. 59) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED as follows:

- (1) The Recommendation (Doc. 59) of the Magistrate Judge is ADOPTED.
- (2) The 28 U.S.C. § 2255 motion (Doc. 1) is GRANTED to the extent that Petitioner Damion Green seeks to file an out-of-time appeal based on his meritorious claim that his counsel rendered ineffective assistance by failing to file a direct appeal when asked to do so;
- (3) This Court will vacate the judgment entered against Green in 1:16-CR-131-ALB (Doc. 321) by separate order in the criminal case;
- (4) For the purpose of allowing Green to pursue his appeal, simultaneous with the entry of this Order, a new judgment will be reentered in the criminal case (1:16-CR-131-ALB). This reentered judgment shall reimpose the same sentence,

- identical in all respects to the original judgment, save only for the date of imposition and entry, which shall reflect today's date;
- (5) Green is advised that he must file any notice of appeal from the re-entered judgment within the 14-day period provided under Rule 4(b)(1)(A)(i) of the Federal Rules of Appellate Procedure;
- (6) Green is advised that he has the right to appeal from the reentered judgment in the criminal case;
- (7) The motion with respect to the remaining claims are DENIED and Grounds One, Two, Three, Four, Six, Seven and Eight of Green's § 2255 motion are DISMISSED without prejudice.

DONE, on this the 15th day of September 2023.



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE